

**INITIAL PROPOSAL
FOR A COLLECTIVE BARGAINING AGREEMENT BETWEEN
THE ASSOCIATION OF LEGAL PROFESSIONALS
AND CITY OF SAN JOSE**

April 20, 2010

As your attorneys and other legal professionals, the members of our Association have a unique ethical relationship with the Mayor, Councilmembers and City management. Even before we became the City's newest bargaining group, we showed a willingness to work with the City management to make sacrifices during difficult budgetary times. We remain committed to continue in that spirit to find reasonable and equitable solutions to the City's current economic stress.

Our Office provides critical legal services to the City

Municipal law is a complex area of practice that is most effectively undertaken by an experienced, dedicated staff of specialists such as the staff in our Office. Many of us have dedicated our careers to the citizens of the City and in doing so have become extremely skilled in the variety of services that we provide. Our services include (1) helping to protect the City's finances and public policies, (2) helping to protect citizens by bringing lawsuits to enforce laws, (3) promoting public safety by addressing problems such as nuisances, gang activity, and uninhabitable living conditions, (4) forcing clean up of real property and neighborhoods through legal means, (5) defending the City - including police, fire and other City personnel - in numerous lawsuits, (6) investigating and prosecuting individuals and businesses that break the law, (7) administering State mandated programs, and (8) recovering judgments and settlements in favor of the City totaling millions of dollars.

Our Office provides high quality, cost-effective services

The Association members take great pride in providing high quality legal services in a cost-effective manner.

Our Office is one of the smallest city attorney offices in the state when measured on the basis of numbers of attorney per resident. Moreover, several studies have shown that our Office provides high quality municipal legal services at minimal cost to the City. For example, a recent report by California Citizens Against Lawsuit Abuse found that San Jose's annual litigation costs in verdicts and settlements and outside counsel costs in the last couple years were the lowest compared to the seven other major California cities.

Thus far we have managed to maintain a high quality of legal services despite reduced compensation, reduced staffing and increased workloads.

Our Office has a history of being part of the solution during difficult budget times

Unlike the members of most of the other city bargaining units, most of our Association members are not civil service employees; they serve at will. Like the members of private law firms, salary increases for the Association members have been based on merit, not on automatic step increases.

Over the years, our Association members have been leaders in accepting wage and benefit concessions. Wage concessions have included both cost of living increases as well as merit increases for the purpose of meeting budget reduction targets and avoiding layoffs. We have made these concessions even as we have seen the City increase our health premiums and contributions toward our retirement benefits.

We showed leadership once again this fiscal year by being the first employee group to give back approximately 2½ % in our compensation in the form of six days of unpaid furlough and temporary elimination of the payment of professional development payments. We estimate the total of the givebacks to be as follows:

FISCAL YEAR 09-10 GIVE BACKS

Furlough = 6 DAYS	\$193,510
Professional Development	\$51,858
Total Previous Givebacks	\$245,165

All of this has resulted in a decrease in pay with an increase in workload without any recognition of these facts in the course of our negotiations to date.

The bargaining process to date leaves important questions unanswered.

After the March 23, 2010 City Council meeting when Council gave its direction for a 10% cut from each of the bargaining units, the City Manager invited the units to a meeting to deliver her preliminary budget message where she outlined the 800 position cuts that she would have to make if the bargaining units did not agree to the requested cuts. At this meeting our Association inquired about our Office budget and the amount of cuts that were being looked at for our staff. We were told that the amount was part of the \$6.1 million in proposed cuts for the Mayor and Council Offices and Council Appointees, including the City Manager's office. The City Manager told us that approximately \$2.4 million was the proposed cut to her office budget, but she would not tell us what the City Attorney's Office budget proposals were. We requested that that information be provided to us at our negotiation scheduled for March 29, 2010 because it would be impossible for us to assess the reasonableness of any contract proposals by our employer without knowing what our employer's overall budget was. To date, we received some but not all of the requested information.

At the last negotiation session our Association was given a copy of the City Attorney's proposed cuts, amounting to approximately \$1.44 million. But neither the City Attorney's representative, nor the City Manager's representative, could tell us if this was the amount used to calculate the City Attorney's portion of the \$6.1 million contained in

the Manager's Preliminary Budget Message. We requested--and are still waiting for-- clarification of this issue.

At the last negotiation session we were also told that our unit's 10% target amounted to \$912,660.

Our proposal meets the budget savings target for our Office

The Association now proposes that the Mayor and City Council accept freezing the following vacant positions proposed by the City Attorney in order to meet the 10% reduction target. As demonstrated by the following calculations, the savings of position cuts roughly equal the amount of the 10% target:

TEN PERCENT TARGET	\$912,660
POSITIONS	TOTAL COST
Deputy City Attorney	\$119,995
Legal Services Manager	\$153,930
*Chief Trial Attorney	\$271,615
Senior Legal Analyst	\$113,363
*Chief Deputy City Attorney	est. \$250,000
Total Position Savings	\$908,903

*We recognize that these two positions were not in our bargaining unit when they became vacant, but we believe it is equitable to credit our unit with these savings because the work done by these positions has now been distributed to our members.

Our proposal is: ALL WAGES AND BENEFITS SHALL OTHERWISE REMAIN IN CURRENT STATUS (PRE FY 09-10) FOR ONE YEAR TO BE MEMORIALIZED IN A COMPLETE AGREEMENT. WE DO NOT PROPOSE A GIVEBACK OF FURLOUGH DAYS OR PROFESSIONAL DEVELOPMENT FUNDS FOR FISCAL YEAR 2010-2011.

Our proposal achieves the City Council's and City management's goals of keeping all savings within the bargaining unit to which it pertains. We acknowledge that our numbers are estimates of savings, but this is due to the lack of the requested information at this stage of our discussions. It should also be noted that by accepting our proposal at this stage the City would save any additional legal fees from its outside negotiator.

City management's initial proposal is rejected because it is unreasonable.

At its last meeting, the Association members present unanimously voted to reject the City management's initial proposal for concessions in our compensation.

As discussed above, the Association's members have a history of being leaders in making appropriate concessions in compensation during difficult budget times. We remain open to discussing reasonable and equitable proposals for concessions in an

atmosphere of full budgetary disclosure. Unfortunately, the City management's current proposal is lacking in the following ways:

- The savings requested in the proposal do not appear to be targeted towards the budget reductions in our Association or in our department. The Association's members will not agree to concessions so that pay, or benefit, compensation can be granted to other bargaining units.
- The proposal calls for concessions of sick leave payout. The Association's position is that this payout is a vested right that the City cannot eliminate. It would be wrong for the City management to break its promise to City employees who have relied on this significant retirement benefit.
- City management's proposal—and negotiations—do not consider reasonable cost savings strategies that many other public entities have agreed to such as furloughs, shorter work weeks or alternative hours at City Hall. City management has not provided any clear, reasonable explanation for refusing to discuss such cost saving measures.
- City management has not provided sufficient information for the Association to reasonably evaluate and consider the concessions that it has proposed. Critically, it has not explained where the savings represented by concessions from our Association will be used. As stated in today's message from the City Manager, "...it will be important for all employees to get factual information about their specific situation."

Unless City management can resolve the problems discussed above, our Association cannot be reasonably expected to respond to any proposal containing concessions.

Finally, we would like to reiterate our willingness to work with City management to come to an equitable solution to the City's budget issues. To this end, we remain open to discuss a global agreement that involves all bargaining units.

William Clark

William Clark, President
Association of Legal Professionals